



Critical Habitat Questions & Answers

1. What is critical habitat?

The Endangered Species Act (ESA) defines critical habitat as specific areas: 1) within the geographical area occupied by the species at the time of listing, if they contain physical or biological features essential to conservation, and those features may require special management considerations or protection; and 2) outside the geographical area occupied by the species if the agency determines that the area itself is essential for conservation.

2. How does critical habitat get designated?

The ESA requires that NOAA and the U.S. Fish and Wildlife Service designate critical habitat for species that have been listed as threatened or endangered. In so doing, the agencies must use the best scientific information available, in an open public process, within specific timeframes. Before designating critical habitat, careful consideration must be given of the economic impacts, impacts on national security, and other relevant impacts of specifying any particular area as critical habitat. The Secretary of Commerce may exclude an area from critical habitat if the benefits of exclusion outweigh the benefits of designation, unless excluding the area will result in the extinction of the species concerned.

3. Why designate critical habitat now?

The ESA requires the agency to designate critical habitat at the time of listing, or within one year if critical habitat is not determinable at that time. In February 2000, NOAA Fisheries Service issued critical habitat designations for 19 salmon and steelhead evolutionarily significant units (ESU). These were subsequently challenged for not sufficiently analyzing the economic impacts of the designations. As a result of litigation, the 2000 proposed designations were withdrawn, and NOAA Fisheries Service issued revised proposed designations on Nov. 30, 2004. A court-ordered consent decree requires the final critical habitat designations be filed by August 15, 2005.

4. What happens once critical habitat is designated and how does it change what federal agencies must do to satisfy the ESA?

The ESA protects threatened and endangered species in several ways. Under Section 7, all federal agencies must ensure that any actions they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species, or destroy or adversely modify its designated critical habitat. These complementary requirements apply only to federal agency actions, and the latter only to habitat that has been designated. A critical habitat designation does not set up a preserve or refuge, and applies only when federal funding, permits, or projects are involved. Critical habitat requirements do not apply to citizens engaged in activities on private land that do not involve a federal agency.

Many actions that adversely modify a species' critical habitat will also jeopardize its continued existence. In practice, we will continue to be concerned about the same activities that harm salmon and

their habitat, regardless of whether that habitat is designated. We expect that where critical habitat is designated, it will more precisely focus our analysis on how the action will alter the habitat and how that will affect the ability of the habitat to support species' conservation.

5. How much habitat did you designate, how much did you exclude, and how is this different from what was proposed?

The designations cover 19 ESUs, 12 of which are within Washington, Oregon and Idaho. Of those 12, several occupy the same streams and have overlapping habitat. The total number of stream miles designated for any ESU is 20,630, and the net number of stream miles excluded is 2,817. The numbers for each ESU are detailed in the *Federal Register* notice. The December 2004 proposal for the Northwest Region included 20,705 miles designated and 2,476 miles excluded.

Of the seven ESUs in California, several occupy the same streams and have overlapping habitat (e.g., Central Valley spring-run Chinook salmon and Central Valley California steelhead ESUs). The net total number of stream miles designated for all ESUs is 8,935, and the net number of stream miles excluded is 847. The total number of miles designated for these seven ESUs in the final rule differ slightly from those identified in the proposed rule.

6. What areas did you exclude and why?

The ESA gives the Secretary of Commerce discretion to exclude areas from designation if he determines that the benefits of exclusion outweigh the benefits of designation. We excluded areas for these 19 ESUs in the following categories:

Military areas. All military areas are excluded because of the current national priority on military readiness, and in recognition of efforts to conserve species through integrated natural resource management plans. In the Northwest, these exclusions total 29 stream miles and 48 shoreline miles in Puget Sound. In California, these exclusions total 44 stream miles.

Tribal lands. Native American tribal lands have been excluded because of the unique trust relationship between tribes and the federal government, the federal emphasis on respect for tribal sovereignty and self-governance, and the importance of tribal participation in numerous activities aimed at conserving salmon. In the Northwest these exclusions total 760 stream miles and 155 near-shore miles in Puget Sound. In California these exclusions total 32 stream miles.

Habitat conservation plans. Some lands covered by habitat conservation plans are excluded because we had evidence that exclusion would benefit our relationship with the landowner, the protections secured through these plans outweigh the protections that are likely through critical habitat designation, and exclusion of these lands may provide an incentive for other landowners to seek similar voluntary conservation plans. In the Northwest these exclusions total 381 stream miles; there were no HCP exclusions in California.

Economic Impacts. We excluded areas where the conservation benefit to the species is relatively low compared to the economic impacts. In the Northwest these exclusions total 1,987 stream miles. In California these exclusions total 771 stream miles. These exclusions reduce the economic impact in the Northwest Region by \$243.6 million and in California by about \$100.5 million.

7. Are any unoccupied areas designated?

In the Northwest, eight stream miles in Hood Canal are designated for Hood Canal summer run chum that were not occupied by the species at the time of listing. We've identified other unoccupied areas that

may be “essential for conservation,” but at this time we lack sufficient information to determine that the currently occupied habitat is inadequate to conserve the ESUs. No unoccupied areas were designated in California, but we identified some unoccupied areas that “may be essential for conservation,” primarily in the Central Valley and southern California.

8. How is the final rule different from what the agency proposed?

In the proposed rule we did not exclude any areas covered by habitat conservation plans. In the final rule, we excluded areas covered by three such plans, all addressing timber management activities. These include the habitat conservation plans for the Washington Department of Natural Resources, Green Diamond Resources Company, and West Fork Timber Company. All these lands are in Washington State.

9. What are the estimated economic impacts of the designation?

Our estimates reflect the total cost associated with ESA Section 7 consultations. As soon as species are listed, federal agencies are required to ensure their actions aren’t likely to jeopardize the species’ continued existence. Once critical habitat is designated, they must also ensure their actions are not likely to destroy or adversely modify critical habitat. Based on our prior consultation record, we could not detect an additional incremental impact to federal agency actions by adding the Section 7 requirement that pertains just to critical habitat. The annual net economic impact of both Section 7 requirements (that is, “jeopardy” and “adverse modification”) is estimated to be \$201 million in the range of the 12 Northwest ESUs. For the seven ESUs in California, the annual net economic impact of the designation is estimated to be \$81.6 million. Economics reports accompanying the agency’s decision give details of the analysis (see Question 12 for more sources of information).

10. How did you determine the areas where the economic benefits of exclusion outweigh the benefits of designation?

We employed a cost-effectiveness approach giving priority to excluding habitat areas with a relatively lower benefit of designation and a relatively higher economic impact. As described in our biological reports (one for the Northwest and one for California) supporting this decision (see Question 12), teams of federal biologists provided information about the benefit of designating any particular habitat area as critical habitat by describing the relative conservation value (high, medium, low) of watersheds. These were compared against economic impacts, described in the economics reports for the Northwest and California, compiled for each watershed based on our Section 7 consultation history in the Northwest and California. The cost-effectiveness approach and the results of its application are described in a separate report (see Question 12).

11. How can I determine which areas are designated?

The *Federal Register* notices for the Northwest and California contain information describing specific streams and near-shore areas (including latitude and longitude identifiers) and maps of the areas designated. We’ve also posted on the Internet a variety of related maps, documents, and data supporting the proposal – see <http://www.nwr.noaa.gov/1salmon/salmesa/crithab/CHsite.htm> for the Northwest and <http://swr.nmfs.noaa.gov> for California. From this site you can access an interactive map hosted by StreamNet where you can “zoom in” on areas of interest in the Northwest and California to see whether they are designated.

12. Which species are affected by these rules?

The rules address 19 ESUs of listed salmon and steelhead in California, Oregon, Washington and Idaho. We have issued two separate rules – one for 12 Northwest ESUs and another for seven California ESUs. The specific ESUs addressed are: (1) Puget Sound Chinook salmon; (2) lower Columbia River Chinook

salmon; (3) upper Willamette River Chinook salmon; (4) upper Columbia River spring-run Chinook salmon; (5) Hood Canal summer-run chum salmon; (6) Columbia River chum salmon; (7) Ozette Lake sockeye salmon; (8) upper Columbia River steelhead; (9) Snake River Basin steelhead; (10) middle Columbia River steelhead; (11) lower Columbia River steelhead; (12) upper Willamette River steelhead; (13) California coastal Chinook salmon; (14) Central Valley spring-run Chinook salmon; (15) northern California steelhead; (16) central California coast steelhead; (17) south-central California coast steelhead; (18) southern California steelhead; and (19) Central Valley steelhead.

13. What about Oregon coast coho salmon?

Oregon coast coho are now proposed for listing under the ESA. We recently extended the deadline for making a final decision on this proposal until this December. We'll address the issue of critical habitat for this ESU at that time.

14. How can I get information about this rule?

The final rules will be published in the *Federal Register* and are now available on <http://www.nwr.noaa.gov/1salmon/salmesa/crithab/CHsite.htm> and <http://swr.nmfs.noaa.gov> for the Northwest and California rules, respectively. The analysis supporting the rules is explained in detail in several accompanying documents. For the Northwest, these include:

A biological report describing how we mapped fish distribution, determined which areas meet the definition of critical habitat, and rated the conservation value of different areas: *Final Assessment of NOAA Fisheries' Critical Habitat Analytical Review Teams For 12 Evolutionarily Significant Units of Pacific Salmon and Steelhead*

An economics report describing how we estimated the economic impact of this proposal on different areas: *Economic Analysis of Critical Habitat Designation for 12 Pacific Salmon and Steelhead ESUs*

A report describing how we considered the biological ratings and the economic impact to recommend the exclusion of particular areas based on economic impacts: *Designation of Critical Habitat for West Coast Salmon and Steelhead: 4(b)(2) Report*

Similar reports that support the rule for the seven ESUs in California are available on the Southwest Region Website.